



37

11 Q Right. Now, in addition to these  
12 e-mails between you and Dr. Herman, did you have  
13 occasion to talk to him about his concerns?  
14 A I don't recall ever having a  
15 discussion one-on-one with him regarding this or  
16 anything. Except when I left the University, we  
17 had the exit interview.  
18 Q Well, tell us about that.  
19 A The exit interview?  
20 Q Yeah.  
21 A It was -- it was good. Very good. I  
22 mean, we had a nice -- really, it was a very good  
23 discussion about the future of the Health Science

38

1 Center, his role in it, what I had accomplished,  
2 very friendly, lasted probably a half hour.  
3 Q Did he indicate any displeasure with  
4 the quality of your performance?  
5 A Not at all.  
6 Q What was his role at that time? He  
7 had moved on from Department Chair, hadn't he?  
8 A Correct. He was Vice President of  
9 Research, VPR.  
10 Q As far as you could tell, he was  
11 happy with your work?  
12 A Yes.  
13 Q And why were you leaving? You had  
14 been offered this job back here in Birmingham?  
15 A That is correct. I was -- had been  
16 called about this job, I would say, nine months  
17 before I left to see if I had an interest.  
18 Q So if D. Herman were to testify that  
19 he had some disappointment in your job  
20 performance, he didn't convey that to you?  
21 A No, he did not.

9. P. 39, l. 14-20 is irrelevant. Rule 402, FRE.
10. P. 40, l. 21 – p. 40, l. 5 is irrelevant. Rule 402, FRE.
11. P. 42, l. 7 – p. 49, l. 18 is irrelevant and contains counsels' side bar comments. Rule 402, FRE.

12. P. 51, l. 3 – p. 52, l. 2 is irrelevant. Rule 402, FRE.
13. P. 52, l. 10 – p. 53, l. 12 is irrelevant. Rule 402, FRE.
14. P. 54, l. 18-20, counsel's objection is not well taken, and should be denied.
15. P. 55, l. 9-11 is irrelevant. Rule 402, FRE.
16. P. 55, l. 19-22 is irrelevant. Rule 402, FRE.
17. P. 56, l. 9 – p. 62, l. 11 is irrelevant and contains counsels' side-bar comments. Rule 402, FRE.
18. P. 64, l. 5 – p. 90, l. 14 is irrelevant, contains counsels' side-bar comments, and objections to irrelevant material. Rule 402 and 403, FRE.
19. P. 90, l. 22, -- p. 91, l. 10 is irrelevant. Rule 402, FRE.
20. P. 92, l. 13 – p. 106, l. 5 is irrelevant. Rule 402, FRE.
21. P. 106, 19 – p. 107, l. 20 is irrelevant. Rule 402, FRE.
22. P. 108, l. 15 – p. 109, l. 17 is irrelevant. Rule 402, FRE.
23. P. 110, l. 18 – p. 111, l. 19 is irrelevant. Rule 402, FRE.
24. P. 112, l. 18 – p. 116, l. 12 is irrelevant. Rule 402, FRE.
25. P. 117, l. 11 – p. 126, l. 2 is irrelevant and contains counsels' colloquy regarding an evidentiary privilege. Rule 402, FRE.
26. P. 127, l. 4-17 is irrelevant. Rule 402, FRE.
27. P. 128, l. 3 – p. 129, l. 16 is irrelevant. Rule 402, FRE.
28. P. 130, l. 5 – p. 131, l. 18 is irrelevant and contains side-bar colloquy between counsel. Rule 402, FRE.
29. P. 133, l. 1 – p. 136, l. 5 is irrelevant and contains side-bar colloquy between counsel. Rule 402, FRE.
30. P. 136, l. 15, -- p. 138, l. 17 is irrelevant and contains side-bar colloquy between counsel and the witness. Rule 402, FRE.
31. P. 140 l. 7 – p. 171 is irrelevant and contains side-bar colloquy between counsel and the witness. Rule 402, FRE.

**B. Barry Norling**

Defendants have tendered the deposition of Barry Norling from p. 46, l. 13 – p. 55, l. 25.

Plaintiff objects to this tender as follows:

- 32. P. 49, l. 10 – p. 54, l. 15 as evidenced by the answers, invite the witness to speculate about matters outside his personal knowledge, and contain the colloquy of counsel regarding evidentiary objections.
- 33. P. 54, l. 16 – p. 55, l. 13 is irrelevant. Rule 402, FRE.

Respectfully submitted,

R. Robert Willmann, Jr.  
Attorney at Law  
P.O. Box 460167  
San Antonio, Texas 78246  
Telephone: 210/828-3444  
Facsimile: 210/828-1767

JUDGE, KOSTURA & PUTMAN, P.C.  
The Commissioners House at Heritage Square  
2901 Bee Cave Road, Box L  
Austin, Texas 78746  
Telephone: 512/328-9099  
Facsimile: 512/328-4132

A handwritten signature in black ink, appearing to read "John Judge", written over a horizontal line.

By: \_\_\_\_\_  
John Judge  
State Bar No. 11044500  
Federal Bar No. 81191

**ATTORNEYS FOR PLAINTIFF**

**CERTIFICATE OF SERVICE**

I hereby certify that on the 10<sup>th</sup> day of March, 2009, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Lars Hagen  
Assistant Attorney General  
Office of the Attorney General  
General Litigation Division  
P.O. Box 12548, Capitol Station  
Austin, Texas 78711-2548  
Telephone: 512/463-2120  
Facsimile: 512/320-0667

A handwritten signature in black ink, appearing to read "John Judge", is written above a horizontal line.

John Judge